

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 1951 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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DAKORE Y IBRAHIM & 9 - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR AMITBHAI KOTAK for Petitioner(s) : 1 - 10.

GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/11/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the
Constitution of India, the petitioners who were
serving as Primary Teachers in Jumma Masjid

Primary and Girls School, Jamnagar, have prayed for an appropriate writ, direction and/or order quashing and setting aside the order of the Director of the Primary Education dated 11.9.1991 denying the benefit of medical allowances to the petitioners.

2. It appears from the record that earlier all the petitioners were given the benefit of medical allowances, however, pursuant to the communication of the Director of Primary Education dated 11.9.1991, the same was discontinued by the District Education Officer, which has given rise to the present Special Civil Application.
3. This Special Civil Application was ordered to be heard along with Special Civil Application No.7971 of 1991, however, the same was detached and came to be heard along with other Special Civil Applications being Special Civil Application Nos.4565 of 1992 and 14310 of 1993 and the said Special Civil Applications came to be allowed by the learned Single Judge of this Court by common judgment and order dated 9.5.1997 and the impugned communication/order of the Director of Primary Education dated 11.9.1991 came to be quashed and set aside and it was ordered that all the Teachers in the private Primary Schools shall be entitled for the benefit of medical allowances. On inquiry,

it was found that the common judgment and order dated 9.5.1997 in Special Civil Application Nos. 7971 of 1991, 4565 of 1992 and 14310 of 1993 was challenged by the State by way of Letters Patent Appeals being Letters Patent Appeal Nos.32, 33 and 35 of 1998 and the Division Bench of this Court vide its common judgment and order dated 13.8.2001, dismissed all the aforesaid three Letters Patent Appeals confirming the common judgment and order passed by the learned Single Judge. Under the circumstances, the present Special Civil Application is also required to be allowed by holding that the petitioners are entitled to the medical allowances and there shall not be any recovery.

4. For the reasons stated above as well as in view of the common judgment and order dated 9.5.1997 passed in Special Civil Application Nos.7971 of 1991, 4565 of 1992 and 14310 of 1993 as well as common judgment and order passed by the Division Bench of this Court in aforesaid three Letters Patent Appeals and for the reasons stated in the same, the petition is allowed. The impugned communication/order dated 11.9.1991 by the Director of Primary Education is hereby quashed and set aside and it is ordered and declared that the petitioners are entitled to the medical allowances.

5. Rule is made absolute to the aforesaid extent,

however, there shall be no order as to costs.

[M.R.SHAH, J.]

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